FILED
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff,	Magistrate Case No.: '08 MJ 8178
v.	COMPLAINT FOR VIOLATION OF 21 U.S.C. § 952 and 960 Importation of a Controlled Substance (Felony)
Agapito ASUNCION-Diaz (1), Robert Alexander ESCOBEDO (2), Defendants.	

The undersigned complainant being duly sworn states:

That on or about February 24, 2008, within the Southern District of California, defendants Agapito ASUNCION-Diaz and Robert Alexander ESCOBEDO did knowingly and intentionally import approximately 335.82 kilograms (738.80 pounds) of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof, in violation of Title 21, United States Code, Sections 952 and 960.

The complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

Sara Galvan, Special Agent
U.S. Immigration and
Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE THIS 26th DAY OF FEBRUARY 2008.

PETER C. LEWIS
U.S. MAGISTRATE JUDGE

UNITED STATES OF AMERICA
v.
Agapito ASUNCION-Diaz(1) and Robert Alexander ESCOBEDO(2)

STATEMENT OF FACTS

This Statement of Facts is based on the reports, documents, and notes furnished to United States Immigration and Customs Enforcement Special Agent Sara Galvan.

On February 24, 2008, at approximately 1719 hours, Alfredo ASUNCION-Diaz and Robert Alexander ESCOBEDO entered the United States from Mexico at the Calexico, CA West Port of Entry. ASUNCION-Diaz was the driver and registered owner of a 1993 Chevrolet Silverado Truck with State of California license plate 8N97329, which was hauling a 2008 Eagle trailer with State of California license plate 4JL1701.

Customs and Border Protection Officer (CBPO) Burgueno was assigned primary inspectional duties and received a negative oral Customs declarations from ASUNCION-Diaz and ESCOBEDO. CBPO Burgueno noticed how both ASUNCION-Diaz and ESCOBEDO were avoiding eye contact as he questioned them. CBPO Burgueno asked ASUNCION-Diaz how long he has owned the trailer to which he responded, three years. As CBPO Burgueno opened the trailer, he noticed a depth discrepancy in the front back wall of the trailer. At this time, CBPO Burgueno with the assistance of other CBP Officers escorted ASUNCION-Diaz and ESCOBEDO to secondary for a more intensive inspection.

CBPO Burgueno requested Canine Enforcement Officer (CEO) Taylor to screen the truck and trailer with his Human Narcotic Detector Dog (HNDD) resulting in a positive alert. CBPO Burgueno conducted a more through search of the trailer, which revealed a false wall in the back of the trailer which when removed revealed several large packages concealed. The packages were wrapped in clear cellophane plastic, black carbon paper, soap powder, covered with grease and tin foil.

CBPO Burgueno extracted twenty-six (26) packages from the compartment. CBPO Burgueno randomly probed a package that produced a green leafy substance that tested positive for marijuana. The total weight of the packages was 335.80 kilograms (738.80 pounds) of marijuana.

ASUNCION-Diaz was placed under arrest and advised of his rights per Miranda, which he acknowledged and waived, agreeing to answer questions without the presence of an attorney. ASUNCION-Diaz stated he was hired by an unknown male to transport the trailer containing wrought iron for five hundred dollars ($500.00) in United States currency and he would also be allowed to keep the trailer once the transportation was complete.

ESCOBEDO was placed under arrest and advised of his rights per Miranda, which he acknowledged and waived, agreeing to answer questions without the presence of an attorney. ESCOBEDO stated he was going to get compensated forty dollars ($40.00) in United States currency by ASUNCION-Diaz to help him transport the trailer with wrought iron from Mexico into the United States.

ESCOBEDO stated that the previous week he was at the Indio Swap Meet and saw ASUNCION-Diaz selling wrought iron at a stand. This statement is inconsistent with ASUNCION-Diaz' statement who stated he's a plumber by profession and on the day of the arrest he and ESCOBEDO picked up the trailer loaded with wrought iron in Mexico for another individual.